

19560 *Shepherd*

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE B-204793

DATE: September 28, 1981

MATTER OF: Dig It Excavating

DIGEST:

Protest denied by contracting officer, subsequently forwarded to GAO by contracting agency at protester's request, is not timely because it was not received by GAO within 10 working days of knowledge of the contracting officer's decision.

On September 16, 1981, we received a letter of September 14, 1981, from the Department of Energy forwarding a protest of August 27, 1981, from Dig It Excavating requesting that the Comptroller General review the contracting officer's August 17, 1981, decision denying the Dig It Excavating protest against the rejection of its bid under invitation for bids DE-FB65-81WP35030.

The protest is untimely. The protester had actual knowledge of the contracting officer's decision on or before August 27. However, the protest was not received here until September 16, more than 10 working days after knowledge of the contracting officer's decision. Section 21.2(a) of our Bid Protest Procedures, 4 C.F.R. § 21.2(a) (1981), requires that a protest from an adverse agency action be received here within 10 working days of knowledge of the action. Although the protester may have requested the contracting agency on a timely basis to submit the matter to the Comptroller General for review, the request to the contracting agency does not constitute filing of the protest here. Peter J. Giordano, B-192595, September 12, 1978, 78-2 CPD 195. See also Miller's of Columbia, B-203273.2, June 26, 1981, 81-1 CPD 535.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel

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